

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Crl.Rev.Pet.No. 2419 of 2007()

**AGAINST JUDGMENT IN CRL.APPEAL NO.547/01 DT 13.4.07 OF THE ADDL.
SESSIONS COURT, ADHOC-ii, THALASSERY AND C.C.NO.135/98DT 27.8.01 OF
CJM, THALASSERY.**

REVN. PETITIONER: APPELLANTS/ACCUSED

- 1. NADUKKANDY KARAVULLAYIL KRISHNAN,
AGED 55, S/O LATE ONAKKAN, NO OCCUPATION,
KOLAVALLUR AMSOM DESOM, P.O.THUVAKUNNU,
THALASSERY TALUK, KANNUR DIST.**
- 2. NADUKKANDIYIL RAVINDRAN, AGED 27,
S/O KRISHNAN, AGRICULTURIST BY OCCUPATION,
KOLAVALLUR AMSOM DESOM, P.O.THUVAKUNNU,
THALASSERY TALUK, KANNUR DIST.**
- 3. NADUKKANDIYIL PRADEEPAN, AGED 27,
S/O LATE KUNHIKANNAN, BUSINESS BY OCCUPATION,
KOLAVALLUR AMSOM DESOM, P.O.THUVAKUNNU,
THALASSERY TALUK, KANNUR DIST.**
- 4. NADUKKANDIYIL ANIL KUMAR, AGED 26,
S/O LATE KUNHIKRISHNAN, WELDER BY OCCUPATION,
KOLAVALLUR AMSOM DESOM, P.O.THUVAKUNNU,
THALASSERY TALUK, KANNUR DIST.**
- 5. NADUKKANDIYIL AJITH, AGED 21,
S/O LATE KUNHIKANNAN, WELDER BY OCCUPATION,
KOLAVALLUR AMSOM DESOM, P.O.THUVAKUNNU,
THALASSERY TALUK, KANNUR DIST.**

BY ADV. SRI.K.S.MADHUSOODANAN

RESPONDENTS: COMPLAINANT & FORMAL PARTY

- 1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.**
- 2. S.H.O.KOLAVALLOR POLICE STATION,
KANNUR DIST.**

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

V. RAMKUMAR, J.

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CrI.R.P. NO. 2419 of 2007

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Dated, this the 19th day of June 2007

ORDER

In this Revision filed under Section 397 read with section 401 Cr.P.C. the petitioners, 5 in number, who were the accused in C.C. No. 135/1998 on the file of the Chief Judicial Magistrate, Thalassery, challenge the conviction entered and the sentence passed against them for offences punishable under Sections 143, 147, 427 and 447 read with Sec. 149 I.P.C. The sentence passed by the trial court was modified in appeal by the Addl. Sessions Court (Adhoc-II), Thalassery by directing each of the revision petitioners to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and on default to pay the fine to undergo rigorous imprisonment for one month under Sec. 427 read with section 149 I.P.C., rigorous imprisonment for three months and to pay fine of Rs.500/- and on default to pay the fine to suffer rigorous imprisonment for 15 days under Sec. 447 read with Sec.149 I.P.C., rigorous imprisonment for six months and to pay fine of Rs. 250/- and on default to pay the fine, to suffer rigorous imprisonment for 15 days under Sec. 143 I.P.C. and

rigorous imprisonment for six months and to pay fine of Rs. 250/- and on default to pay the fine to suffer rigorous imprisonment for 15 days under Sec. 147 I.P.C. From out of the fine amount as and when realised a sum of Rs.5,000/- was directed to be paid as compensation to P.W.1, the injured. It is the said judgment which is assailed in this Revision.

2. I heard the learned counsel for the revision petitioners as well as the learned Public Prosecutor.

3. In as much as the conviction has been concurrently recorded by the courts below on an appreciation of the oral and documentary evidence in the case and also since I do not find any infirmity in the appreciation of evidence by the courts below, I do not find any good reason to interfere with the conviction recorded by the courts below, sitting in this rarefied jurisdiction of this Court under Sec.397 Cr.P.C.

4. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioners.

5. Even though the offences were committed at a time when an interim injunction was in force against the revision petitioners, having regard to the fact that even before the civil court there was a dispute regarding the identity of the property

and the occurrence took place after midnight, I am of the view that the revision petitioners do not deserve the sentence of imprisonment for a duration beyond the rising of the court. But at the same time, they have to pay enhanced fine for the offences punishable under Sections 143 and 147. Accordingly, as against the sentence imposed on the revision petitioners by the lower appellate court in appeal, their sentence is modified as follows:-

“For their conviction under Section 427 read with section 149 I.P.C. each of the revision petitioners shall undergo imprisonment till the rising of the court and pay a fine of Rs. 1,000/- and on default to pay the fine to suffer simple imprisonment for two months. For their conviction under Section 447 read with Sec. 149 I.P.C. each of the Revision Petitioners shall undergo imprisonment till the rising of the court and pay a fine of Rs.500/- and on default to pay fine, to suffer simple imprisonment for one month. For their conviction under Sections 143 and 147 I.P.C. each of the revision petitioners shall undergo imprisonment till the rising of the court for each of the offences and shall also pay a fine of Rs.500/- for each of the offences failing which they shall suffer simple imprisonment for one month

for each of the defaults. The substantive sentence of imprisonment till the rising of the court shall run concurrently. The revision petitioners shall pay the fine amount before the trial court within one month from today failing which the sentence imposed on them by the appellate court shall revive”.

The direction to pay the compensation to P.W.1 is not interfered with.

This Revision is disposed of as above.

**V. RAMKUMAR,
(JUDGE)**

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